

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

FILED 06 AUG 23 11:30AM '06 USDC ORP

DARWIN URBINA,

No. CV06-538-ST

Petitioner,

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION

v.

ELIZABETH GODFREY, et al.,

Respondents.

MOSMAN, J.,

On July 5, 2006, Magistrate Judge Stewart issued Findings and Recommendation ("F&R") (#9) in the above-captioned case recommending that respondents' motion to dismiss for lack of jurisdiction (#6) be denied. On July 10, 2006, respondents filed objections (#10) to the F&R. On July 21, 2006, petitioner filed a response (#11) to respondents' objections.

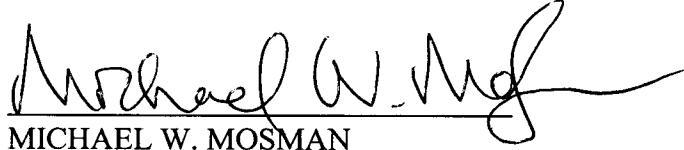
In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny

under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R, objections, and relevant pleadings, the court agrees with Judge Stewart's recommendation to deny respondents' motion to dismiss for lack of jurisdiction (#6). Accordingly, the court ADOPTS the F&R without modification.

IT IS SO ORDERED.

DATED this 22 day of August, 2006.



MICHAEL W. MOSMAN
United States District Court